



Arizona Regulatory Board of Physician Assistants

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Janet Napolitano
Governor
Albert Ray Tuttle, P.A.-C
Chairman
Timothy C. Miller, J.D.
Executive Director

DRAFT MINUTES FOR REGULAR SESSION MEETING Held at 1:00 p.m. on November 16, 2005 9535 E. Doubletree Ranch Road - Scottsdale, Arizona

Board Members

Albert Ray Tuttle, P.A.-C, Chair
Joan M. Reynolds, P.A.-C, Vice Chair
Randy D. Daniels, Ph.D., P.A.-C
Michael E. Goodwin, P.A.-C
James Edward Meyer, M.D.
Sigmund Popko, J.D., Public Member
Anna Marie Prassa, Public Member
Peter C. Wagner, D.O.
Kelli M. Ward, D.O.
Barry D. Weiss, M.D., FAAFP

WEDNESDAY, November 16, 2005

CALL TO ORDER – 1:00 p.m.

Albert Ray Tuttle, P.A.-C, Chair, called the meeting to order at 1:00 p.m.

ROLL CALL

The following Board members were present: Randy D. Daniels, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James Edward Meyer, M.D., Sigmund Popko, J.D., Anna Marie Prassa, Joan M. Reynolds, P.A.-C, Albert Ray Tuttle, P.A.-C, and Peter C. Wagner, D.O. Barry D. Weiss, M.D. FAAFP

Kelli M. Ward, D.O. arrived at 1:35 p.m.

Albert Ray Tuttle, P.A.-C welcomed Dr. Ward to the Board.

CALL TO THE PUBLIC – 1:00 p.m.

Statements issued during the call to the public appear beneath the case referenced.

Executive Director's Report

Mr. Timothy Miller, J.D., Executive Director commented on some recent press coverage directed at the Arizona Medical Board, but noted he wanted to discuss the issues with this Board because it shares the Medical Board's Staff. He stated the Arizona Capitol Times published an article based on complaints filed by previous Board employees. Mr. Miller stated the two allegations in the article were that the Board does not have a fair investigative process and there has been a high Staff turnover. Mr. Miller stated they Board does have a good investigative process that it has been revamped to guarantee investigations are conducted fairly. Secondly, the allegation of high Staff turnover is true in that 80% of Staff resigned following the departure of the agency's previous Executive Director. Mr. Miller stated it is hard to know what was the cause of the Staff turnover as many resigned without being asked to leave. Mr. Miller stated his best assumption was that previous Staff did not agree with the change in philosophy and had a loyalty to the previous management. Mr. Miller stated, however, the agency's new Staff has caught up on the work load, staff moral is high and the agency's turnover has come to an end.

Mr. Miller then noted the process for handling appeals of Executive Director dismissal. He said that, in the past, all appeals were brought to the Boards' attention. The process has now been changed to be conform to the Medical Board's rule governing appeals. Conforming to the Medical Board rule allows for uniformity in processing by Staff. If an appeal is untimely and presents no new information it will not be forwarded to the Board. If the appeal is untimely, but contains new information, the case will be reopened and returned to the Board, as will cases that are filed timely and that contain new information.

Mr. Miller also informed the Board that a joint Medical Board and Physician Assistant newsletter will be forthcoming. The newsletter will be helpful to both the public and to licensees.

Mr. Miller then spoke on the status of the Minor Surgery Rules. He stated language has not been drafted because there is not a committee formed to look at the language for the rules. He said that a committee was formed prior to a previous Board Members term expiring and that the subcommittee still exists, although there is no standing committee presently.

Licensing Fee Increase Memo

Mr. Miller reported he had requested a financial audit of the Agency when the Board's Business Office Manager left the Board's employ. The auditors noted the Board charged one inclusive fee for an application and license, but the Board's statute provide for two separate fees. Mr. Miller asked that the Board separate out the application fee and adopt a licensure fee.

Mr. Miller answered the Board regarding its prior inquiry about the Board's financial sustainability under its current fees. Mr. Miller said 7.2% of the agency's licensees are Physician Assistants. Of the total agency's applications and renewals 12% are for the P.A. Board. Additionally, 2.5% of the agency's investigations are for the Physician Assistants. The P.A. Board currently brings in 4.1% of the agency's income and is 4.1% of the agency's total operating costs. Mr. Miller said the PA Board is not being subsidized by the Arizona Medical Board.

Suzann Grabe, Licensing Office Manager also spoke regarding the current fees and requested the Board to review the following fees and vote on separating the license fee from the application fee, consider a new fee and raise a fee:

1. Temporary License Fee- \$50.00
2. Regular License- Prorated fee up to \$100.00
3. License Application Fee- \$125.00

The following fee is a new fee:

4. Adding a Supervising Agent to an existing Notice of Supervision- \$25.00

This fee is per each request to add agents, not per the number of agents added to the supervision notice. There is no fee for deleting the name supervising physician. These changes can also be made on the biannual renewal form for no additional fee.

The following is an increase in fee:

5. Verification of Licensure- increase from \$5.00 to \$10.00 per verification.

MOTION: Anna Marie Prassa moved to accept the fees as listed above.

SECONDED: Kelli M. Ward, D.O.

VOTE: 10-yay, 0-abstain/recuse, 0-absent

MOTION PASSED

Peter C. Wagner, D.O. requested the next agenda allow for discussion in changing the licensure cycle to a biannual renewal.

Investigations Office Report – Regulations Division

Mr. Miller reported there have been several positive accomplishments in a short period of time within the Agency. Mr. Miller stated the Agency has revamped the Investigations processes and the new process guarantees investigations will be conducted fairly. Mr. Miller explained the steps of the process:

1. The Agency's investigators determine the findings of the case. Once the findings are determined by the Investigations department, no other department can change the investigative findings, not even the Executive Director. The licensee then receives a copy of the actual complaint and the Staff's findings. The licensee responds initially and if the case is not dismissed, the licensee receives a second notice with a CD of the materials pertinent to the case and the Staff's findings. The licensee is then given the opportunity to respond a second time.
2. The findings of the case are then forwarded to the Staff Internal Review Committee (SIRC). SIRC is comprised of three Staff members and an Assistant Attorney General is also present to help ensure the cases are legally sufficient before sending them to the Board. If SIRC feels the investigation is lacking or does not come across clearly, they can send the case back to for further Investigations or clarification. SIRC cannot change the findings. SIRC determines whether the Investigation is complete and then decides on a recommendation for the Board's decision in the case.
3. The case then proceeds to the Executive Director. The Executive Director cannot change SIRC's recommendation, but can send it back to SIRC with his recommendations. If SIRC does not agree with the recommendation, the Executive Director can then forward the case to the Board with a cover memo stating his recommendation.
4. The last stage is the Board's adjudication.

Mr. Miller also commented to the Board on a positive change in the Physician Health Program (PHP). The PHP has been expanded to include all forms of health care needs of licensees. The program now accommodates a licensee with a psychiatric, physical, or substance impairment. If a licensee self reports, he or she may enter the program confidentially under a non-disciplinary order provided there are no felonies or patient harm on the record. Board Staff would then monitor the licensee. Mr. Miller mentioned the new PHP gives licensees the incentive to self-report while assisting the Board in protecting the public. Mr. Miller also explained the PHP program also monitors licensees with disciplinary orders.

Sigmund G. Popko asked if the Monitored Aftercare Program (MAP) has been audited for its effectiveness. Kathleen Muller, Senior Compliance Officer responded to the Board's inquiry by stating although they have not been audited, the program has been nationally recognized as the best. Ms. Muller stated both she and Dr. Sucher attend the semi-annual and annual Federation of State Medical Boards Physician Health conferences and have observed that the Board's MAP program goes above and beyond what other state's monitoring aftercare programs do.

Approval of Minutes

MOTION: Joan M. Reynolds, P.A.-C moved to accept the August 24, 2005 Meeting Minutes with the exception of the correction of the word "Xantac" which should be changed to "Xanax"

SECONDED: Anna Marie Prassa

VOTE: 10-yay, 0-abstain/recuse, 0-absent

MOTION PASSED

NON-TIME SPECIFIC ITEMS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
1.	PA-05-0005A	L.M.	NICOLE L. BARBARO, P.A.-C	2925	Dismissed

Mark Nanney, M.D., Chief Medical Consultant presented the case. The patient presented to Dr. Barbaro with an inability to bear weight on his ankle. PA Barbaro saw and examined the patient and X-rays were performed. The PA treated the patient for a 3rd degree ankle sprain and sent the patient home with instructions to follow up with an orthopedic surgeon within two days. The complainant states he was never contacted of the outcome of the x-ray reading. The patient had to go to another physician to get the proper diagnosis of his ankle fracture. P.A. Barbaro stated the x-rays at her facility were electronic and may have been mislabeled causing her to view the wrong x-ray. She said, she would have not missed the fracture on the film had she have viewed the x-ray

The Board viewed x-rays during the meeting.

Barry Weiss, M.D. said he believed it was a system issue that there was not adequate or timely follow up on the reading of the x-ray. He said a misread x-ray is not an issue since the P.A. is not claiming to be a radiologist and had follow up for the reading by the radiologist in the hospital.

Kelli M. Ward, D.O. said the incident happened in an emergency depart where someone else is on shift the following day and is responsible for following up with reading the x-ray or contacting the patient and agrees the issue in this case is a systems problem.

James Meyer, M.D. noted the patient was treated appropriately, although the correct diagnosis was not given to the patient and there was no patient harm.

MOTION: Joan M. Reynolds, P.A.-C moved to dismiss the case.

SECONDED: Anna Marie Prassa

VOTE: 10-yay, 0-abstain/recuse, 0-absent

MOTION PASSED

Randy Danielsen, Ph.D, P.A.-C asked for discussion as to why a non-disciplinary Advisory Letter would not be issued to the physician assistant.

Kelli M. Ward, D.O. said the P.A. appropriately treated the patient and gave the same follow up advice as if the patient had either a 3rd degree sprain or fracture.

Barry Weiss, M.D. said the P.A.'s treatment of the patient was well within the standard of care and there was no actual or potential harm to the patient.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN ASSISTANT		LIC. #	RESOLUTION
2.	PA-APP-05-0001	ARBOPA	LINDA LAYTON, P.A.-C	N/A	Denial of License.

Linda Layton, P.A.-C was present with legal counsel, Mr. Michael R. Golder. Both parties spoke during the Call to the Public. Mr. Golder stated the Executive Director's decision is reasonable and P.A. Layton does admit to practicing without a license. However, he stated Ms. Layton was hired to be supervised by Dr. Van Dyke and was not aware that the supervising physician would not be present when she arrived in Arizona and would not return to her practice for several months. Mr. Golder stated that they have no reason to believe Ms. Layton would be denied a license since she is licensed in two separate states and her one offense was practicing in Arizona before her license was issued.

Linda Layton, P.A.-C also spoke during the Call to the Public stating she sincerely enjoys caring for and helping people and elaborated on her volunteer work and programs she has done to help other communities. Ms. Layton said she called the Board several times to ask the status of license, assuming the license would arrive to her quickly, but could not get through to the Board to find out the status of her application. Ms. Layton said that when the Board returned her phone call and asked if she was practicing, she panicked and lied. Ms. Layton said she regrets her behavior and said she would consent to any restrictions the Board may impose.

Cathy Riggs, Manager, Office of Investigations, presented the case to the Board. When the Arizona Board of Physician Assistants Staff learned Ms. Layton was practicing without a license and doing procedures not delegated by a supervising physician, a cease and desist order was issued through the Attorney General's office and Ms. Layton complied. Ms. Riggs stated Ms. Layton treated approximately 165 patients in Arizona during her application process.

Amanda J. Diehl, Deputy Executive Director stated Ms. Layton was aware that her license had not been approved because she was calling the Board frequently to check on the status of her application.

Suzann Grabe, Licensing Office Manager spoke to Ms. Layton's application discrepancies. She said Ms. Layton answered, on her application, that she had no limitations imposed on her by a supervising physician. However, a verification of employment showed Ms. Layton had a limitation from her supervising physician prohibiting her from seeing children or rashes. Ms. Grabe stated Ms. Layton did not provide a current address or phone number so she would know if her application was approved.

James E. Meyer, M.D. said it is evident P.A. Layton knew she was practicing without a license.

Randy Danielson, Ph.D., P.A.-C said he felt the evidence presents integrity issues with P.A. Layton both on her application to the Board and in her practice without a license.

MOTION: Barry Weiss, M.D. moved to deny the license for not having a professional record that indicates she has not committed any act or engaged in conduct that constitutes grounds for disciplinary action against the licensee. A.R.S. §32-2521. Specifically, A.R.S. §32-2501(21)(a) – Violation of any federal or state law or rule that applies to the performance of health care tasks as a physician assistant. Conviction in any court of competent jurisdiction is conclusive evidence of a violation, A.R.S. 32-2554(A)(1) – A person who does any of the following is guilty of a class 6 felony; Performs a health care task if that person is not licensed pursuant to this chapter or is not exempt from licensure pursuant to this chapter, A.R.S. §32-2501(21)(c) – Performing health care tasks that have not been delegated by the supervising physician, A.R.S. §32-2501(21)(u) – Committing of a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission, A.R.S. §32-2501(21)(x) – Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate a provision of this chapter, and A.R.S. §32-2501(21)(bb)- Knowingly making a false or misleading statement on a form required by the board or in written correspondence or attachments furnished to the board.

SECONDED: Randy Danielson, Ph.D., P.A.-C

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Randy D. Daniels, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James Edward Meyer, M.D., Sigmund Popko, J.D., Anna Marie Prassa, Joan M. Reynolds, P.A.-C, Albert Ray Tuttle, P.A.-C, and Peter C. Wagner, D.O., Kelli M. Ward, D.O., Barry D. Weiss, M.D. FAAF

VOTE: 10-yay, 0-nay, 0-abstain/recuse, 1-absent

MOTION PASSED.

FORMAL INTERVIEWS

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
3.	PA-04-0068A	ARBOPA	MICHAEL P. MILLETTE P.A.-C	2866	Draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand with a five year Probation with participation in MAP. The Probation will terminate five years from Respondent's participation in MAP pursuant to the Interim Consent Agreement dated September 2, 2005.

Michael P. Millette, P.A.-C was present without legal counsel.

Lorraine Brown, Senior Compliance Officer with the Physician's Health Program presented the case to the Board. P.A. Millette successfully completed treatment for chemical dependency at Chandler Valley Hope Treatment Center on September 2, 2005. He signed an Interim Consent Agreement on September 9, 2005 and has been in full compliance with his Consent Agreement.

P.A. Millette said he was prepared to leave his practice in order to avoid consequences of his substance abuse, but was helped to see that he could face the consequences of his actions and prevail over his disease of addiction. P.A. Millette stated he has missed opportunities for employment due to his pending disciplinary actions by the Board.

Randy Danielson, Ph.D, P.A.-C led the questioning and asked P.A. Millette to elaborate on his relapse in February 2005. P.A. Millette said he was away from his support group at the time of his relapse and had become overconfident about his recovery. Mr. Millette said he currently attends support groups and meetings, has a sponsor, and has a supportive wife and family as well.

Michael E. Goodwin, P.A. asked P.A. Millette if he was currently employed. Mr. Millette said he is seeking employment, but the facility he applied at is awaiting the Board's decision. Mr. Millette stated the last time he was employed was in December 2004. Mr. Millette said he has done on-line CME to keep current since that time, but has been working on his recovery for the past six months.

MOTION: James E. Meyer, M.D. moved to find unprofessional conduct based on A.R.S. §32-2501 (21)(d) - Habitual intemperance in the use of alcohol or habitual substance abuse, (j) Any conduct or practice that is harmful or dangerous to the health of the patient or the public. (r) Violating a formal order, probation, consent agreement or stipulation issued or entered into by the Board or its executive director under the provisions of this chapter.

SECONDED: Sigmund G. Popko

VOTE: 9-yay, 0-abstain/recuse, 1-absent

MOTION PASSED

MOTION: James E. Meyer, M.D. moved to draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand with a five year Probation with participation in MAP. The period of the probation to terminate five years from Respondent's participation in MAP pursuant to the September 2, 2005 Interim Consent Agreement.

SECONDED: Barry Weiss, M.D.

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Randy D. Daniels, Ph.D., P.A.-C, Michael E. Goodwin, P.A.-C, James Edward Meyer, M.D., Sigmund Popko, J.D., Anna Marie Prassa, Joan M. Reynolds, P.A.-C, Albert Ray Tuttle, P.A.-C, and Peter C. Wagner, D.O., and Barry D. Weiss, M.D. FAAFP.
VOTE: 9-yay, 0-nay, 0-abstain/recuse, 1-absent
MOTION PASSED.

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
4.	PA-04-0052A	ARBOPA	LEON GARZA, P.A.-C	2619	This matter was pulled from the Board's agenda.

The Meeting was adjourned at 3:00 p.m.

[Seal]

Timothy C. Miller, J.D., Executive Director